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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,311	03/12/2004	William M. Hartsock	ARS-102US	8223
23122	7590	09/03/2004	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			SHRIVER II, JAMES A	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,311

Applicant(s)

HARTSOCK, WILLIAM M. 

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/12/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claim 7 is objected to because of the following informalities: in line 6, “a canister” is set forth and in line 10, “a vertically-oriented, cylindrically-shaped canister” is also set forth.

Examiner assumes these are the same component. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Salvucci (US Patent 5,145,311).** Salvucci discloses a cart (29) for safely transporting and storing a single, large, vertically-oriented, cylindrically-shaped canister (30) having a horizontally-oriented base, wherein the vertical and horizontal orientations of the canister and its base, respectively, are constantly maintained throughout the transporting and storing of the canister (See Fig. 5), said cart comprising a stable base having a bottom platform (See Fig. 5), and four wheels operatively connected to said stable base and configured to support the weight of the canister (See Fig. 5), wherein said stable base is configured to received and support the horizontally-oriented base of the canister (See Fig. 5); two side rails extending upwardly from said stable base (See Fig. 5); and a circumferential band removably attached to said side rails and configured to encircle and secure from movement the canister, within said cart, said ban at an

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elevation above the horizontally-oriented base of the canister (See Fig. 5); **[claim 2]** wherein said side rails are permanently attached to said stable base of said cart (See Fig. 5); **[claim 3]** wherein each of said side rails comprises a tab for attaching said band to said side rails (See Fig. 5).

Regarding claim 7, Salvucci discloses a canister assembly for safely transporting and storing a large volume of liquid, said assembly comprising a cart (29) comprising a stable base (See Fig. 5), four wheels operatively connected to said stable base and configured to support the weight of a canister (30), two side rails extending upwardly from said stable base, and a circumferential band removably attached to said side rails (See Fig. 5); and a vertically-oriented, cylindrically-shaped canister having a horizontally-oriented base, wherein said band is configured to encircle and secure from movement said canister, within said cart, said band is at an elevation above the horizontally-oriented base of said canister, said canister is positioned on said stable base and configured to retain the volume of liquid, and the vertical and horizontal orientations of said canister and its base, respectively, are constantly maintained throughout the transporting and storing of said canister (See Fig. 5).

Regarding claims 8-9, under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986). Salvucci clearly discloses a cart and lift in Figure 5, which would perform the claimed method of claims 8-9.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salvucci (US Patent 5,145,311).** Salvucci discloses the cart as set forth above, but does not specifically disclose wherein said side rails and bottom platform are made from stainless steel tubing and plating, respectively. It is inherent that the cart disclosed in Salvucci is made from a metal material to support the heavy load of a full cylinder. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide stainless steel tubing and plating for the side rails and bottom platform for the cart disclosed in Salvucci. One of ordinary skill in the art would have expected Applicant's invention to perform equally well with numerous types of metallic materials to make the cart from. The motivation for using stainless steel to make the cart from would be to be resistant to rusting.

Regarding claim 6, Salvucci discloses the cart having two of the four wheels be caster wheels for steering the cart. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide four caster wheels on the cart to increase the maneuverability of the cart, because *In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960) held that duplicating parts for a multiple effect is considered to be within the level of ordinary skill in the art.

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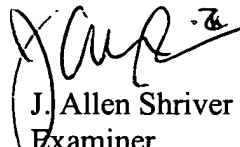
Conclusion

6. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 8/31/04
J. Allen Shriver
Examiner
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JAS